



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3686

by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2RRR new

Amends the Consumer Fraud and Deceptive Business Practices Act. Makes it an unlawful business practice for operators of Internet websites, webpages, online services, online applications, social networking websites, or mobile applications directed at minors to not allow a minor to request and obtain removal of content or information posted by the minor or not allow the minor to remove the content or information themselves. Makes it an unlawful business practice for operators of Internet websites, webpages, online services, online applications, social networking websites, or mobile applications who have actual knowledge that a minor is using its Internet website, webpage, online service, online application, social networking website, or mobile application to not allow the minor to request and obtain removal of content or information posted by the minor or not allow the minor to remove the content or information themselves. Also makes it an unlawful business practice to not inform minors that are registered users of the service that they may have content or information posted by them removed including instructions on how to remove or obtain removal of the content or information. Provides exceptions if: (1) federal or State law requires maintenance of the content or information; (2) the content or information was posted by a third party, including reposting of content originally posted by the minor; (3) the content or information is hidden or made anonymous; (4) the minor fails to follow instructions for removal; or (5) the minor received compensation for the content or information. Provides the Section does not limit the authority of a law enforcement agency to obtain any content or information as required by law or court order. Provides third parties may not be found in violation of this Section. Provides operators of Internet websites, webpages, online services, online applications, social networking websites, or mobile applications are not required to seek age information about users.

LRB098 14066 MLW 48630 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2RRR as follows:

6 (815 ILCS 505/2RRR new)

7 Sec. 2RRR. Internet content removal for minors.

8 (a) For purposes of this Section:

9 "Minor" means a natural person under 18 years of age
10 who resides in this State.

11 "Internet website, webpage, online service, online
12 application, social networking website, or mobile
13 application directed to minors" means an Internet website,
14 webpage, online service, online application, social
15 networking website, or mobile application, or a portion of
16 it, that is created for the purpose of reaching an audience
17 that is predominately, comprised of minors, and is not
18 intended for a more general audience comprised of adults.

19 "Internet website, webpage, online service, online
20 application, social networking website, or mobile
21 application directed to minors" does not include an
22 Internet website, webpage, online service, online
23 application, social networking website, or mobile

1 application, or a portion of it, that only refers or links
2 to an Internet website, webpage, online service, online
3 application, social networking website, or mobile
4 application directed to minors by using information
5 location tools, including a directory, index, reference,
6 pointer, or hypertext link.

7 "Internet operator" means a person or entity that owns
8 an Internet website, webpage, online service, online
9 application, social networking website, or mobile
10 application. "Internet operator" does not include an
11 employee or third party that operates, hosts, or manages an
12 Internet website, webpage, online service, online
13 application, social networking website, or mobile
14 application on the owner's behalf or processes information
15 on the owner's behalf.

16 "Personal information" means an individual's first
17 name or first initial and last name in combination with any
18 one or more of the following data elements, when either the
19 name or the data elements are not encrypted or redacted:

20 (1) Social Security number.

21 (2) Driver's license number or State
22 identification card number.

23 (3) Account number or credit or debit card number,
24 or an account number or credit card number in
25 combination with any required security code, access
26 code, or password that would permit access to an

1 individual's financial account.

2 "Personal information" does not include publicly
3 available information that is lawfully made available to
4 the general public from federal, State, or local government
5 records.

6 "Social networking website" means an Internet website
7 containing profile webpages of the members of the website
8 that include the names or nicknames of the members,
9 photographs placed on the profile webpages by the members,
10 or any other personal or personally identifying
11 information about the members and links to other profile
12 webpages on social networking websites of friends or
13 associates of the members that can be accessed by other
14 members or visitors to the website. A social networking
15 website provides members of or visitors to the website the
16 ability to leave messages or comments on the profile
17 webpage that are visible to all or some visitors to the
18 profile webpage and may also include a form of electronic
19 mail for members of the social networking website.

20 (b) It is an unlawful practice under this Act for an
21 Internet operator of an Internet website, webpage, online
22 service, online application, social networking website, or
23 mobile application directed to minors or an operator of an
24 Internet website, webpage, online service, online application,
25 social networking website, or mobile application who has actual
26 knowledge that a minor is using its Internet website, webpage,

1 online service, online application, social networking website,
2 or mobile application to:

3 (1) not permit a minor to remove or request and obtain
4 removal of content or information posted by the minor on
5 the Internet website, webpage, online service, online
6 application, social networking website, or mobile
7 application; or

8 (2) not provide notice and clear instructions to a
9 minor who is a registered user of the Internet operator's
10 Internet website, webpage, online service, online
11 application, social networking website, or mobile
12 application that the minor may remove or request and obtain
13 removal of content or information posted by the minor on
14 the Internet website, webpage, online service, online
15 application, social networking website, or mobile
16 application, including clear instructions on how the minor
17 may remove or request and obtain the removal of content or
18 information posted by the minor on the Internet website,
19 webpage, online service, online application, social
20 networking website, or mobile application.

21 The notice under this subsection shall include notice that
22 removal does not ensure complete or comprehensive removal of
23 the content or information posted by the minor on the Internet
24 operator's Internet website, webpage, online service, online
25 application, social networking website, or mobile application.

26 (c) An Internet operator shall not be found in violation of

1 this Section if:

2 (1) a provision of federal or State law requires the
3 operator to maintain the content or information posted by
4 the minor;

5 (2) the content or information posted by the minor,
6 with the exception of the minor's personal information, was
7 stored on or posted to the Internet operator's Internet
8 website, webpage, online service, online application,
9 social networking website, or mobile application by a third
10 party, including content or information that was stored,
11 republished, or reposted by the third party after
12 originally being posted by the minor regardless of whether
13 the minor has had the original posting removed;

14 (3) the Internet operator makes the content or
15 information posted by the minor anonymous, so that the
16 minor cannot be individually identified, or renders the
17 content or information posted by the minor not visible to
18 the public or other users even if the content or
19 information remains on the Internet operator's servers;

20 (4) the minor does not follow the instructions provided
21 on how to request and obtain the removal of content or
22 information posted on the Internet operator's Internet
23 website, webpage, online service, online application,
24 social networking website, or mobile application; or

25 (5) the minor posting the content or information
26 received compensation or other consideration for providing

1 the content or information.

2 (d) This Section shall not be construed to limit the
3 authority of a law enforcement agency to obtain any content or
4 information from an Internet operator's Internet website,
5 webpage, online service, online application, social networking
6 website, or mobile application as authorized by law or under an
7 order of a court of competent jurisdiction.

8 (e) A third party that posts content or information
9 concerning a minor, including republishing or reposting
10 content or information originally posted by a minor, that is
11 not the Internet operator of the Internet website, webpage,
12 online service, online application, social networking website,
13 or mobile application to which the content or information was
14 posted may not be found in violation of this Section. This
15 subsection shall not be construed as immunizing the third party
16 against other criminal or civil penalties.

17 (f) This Section shall not be construed to require an
18 Internet operator of an Internet website, webpage, online
19 service, online application, social networking website, or
20 mobile application to collect age information about users.

21 (g) The parent or legal guardian of a minor may remove or
22 request the removal of content or information posted by his or
23 her minor as provided in this Section, without the knowledge or
24 consent of the minor for whom the parent or legal guardian
25 bears responsibility.